HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.23911 of 2007

Dated:06-12-2007

Between:

Cheruku Shravani

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AND

The Karimnagar Municipal Corporation,
Karimnagar.

And others.

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Counsel for the petitioner : Sri V.Ravikiran Rao

Counsel for Respondent NO.1 : Sri J.Kanakaiah, Standing Counsel
Counsel for Respondent No.2 : Sri P.V.Narayana Rao
Counsel for Respondent No.3 : Sri P.V.Srinivasa Rao.

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HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23911 of 2007

O R D E R:

This writ petition is filed for a writ of certiorari to quash proceedings dated 8.10.2007 passed by the Commissioner of Karimnagar Municipal Corporation – respondent No.1, whereby building permission granted to the petitioner on 24.7.2007 was cancelled.

The petitioner claims to be the absolute owner and possessor of land admeasuring 280 sq.yards in survey No.1317/A of Vavilalapalli locality of Karimnagar district. She claims to have purchased the said property from one Mekala Omprakash, s/o.Mallaiah and Naluwala Raj Kumar, s/o.Mallaiah through registered sale deed dated 5.6.2007. The petitioner filed an application, alongwith title deeds, on 21.7.2007 to respondent No.1 for sanctioning building plan. The petitioner claims that before grant of building permission legal opinion was received by respondent No.1 and inspection of the site was conducted by the officials of the Town Planning wing. The petitioner further averred that when respondent No.2 and others, named in para-5 of the affidavit, tried to interfere with her possession, she filed O.S.No.183 of 2007 on the file of Senior Civil Judge, Karimnagar on 17.8.2007 and also obtained injunction in I.A.No.1306 of 2007 which was made absolute on 18.9.2007. Subsequently, the petitioner received a show cause notice dated 17.9.2007 from the Commissioner of respondent No.1 Corporation wherein she was asked to explain why permission granted on 24.7.2007 shall not be revoked. The petitioner submitted her explanation and after considering the same, respondent No.1 passed order dated 18.10.2007, cancelling the building permission granted in her favour and the said order is assailed in this writ petition.

Heard Sri V.Ravikiran Rao, learned counsel for the petitioner, Sri J.Kanakaiah, learned Standing Counsel for respondent No.1, Sri P.V.Narayana Rao, learned counsel for respondent No.2 and Sri P.Srinivasa Rao, learned counsel for respondent No.3.

A perusal of the show cause notice reveals that respondent No.2 made representation on 29.8.2007 to cancel the permission granted in favour of the petitioner and similarly respondent No.3 made his representation on 7.9.2007 to the same effect and therefore, the petitioner was required to submit her explanation. In the impugned order it is mentioned that respondent No.2 stated that she is the owner of the land and that the petitioner fabricated a document without submitting any link documents while obtaining building permission and that respondent No.3 stated that he purchased the said land from Sri S.Malliah (husband of respondent No.2) and obtained construction permission on 10.1.2005 in respect of the same site. It is further mentioned in the impugned order that the petitioner submitted "irrelevant explanation" to the show cause notice and she obtained building permission suppressing the facts relating to the ownership of the land.

Under Section 450 of the Hyderabad Municipal Corporation Act 1955 if the Commissioner is satisfied that if any permission was granted in consequence of any material misrepresentation or fraudulent submission contained in the notice given or information furnished under Section 428 or 433, he may cancel such permission. Therefore, before cancelling permission already granted, it is incumbent upon the Commissioner not only to be satisfied that the petitioner was granted building permission in consequence of any material misrepresentation or fraudulent submission contained in the notice given or information furnished by her, but also to record the same in the order. All that the Commissioner mentioned in the order is that respondents 2 and 3 made representations that they have right over the properties and also that respondent No.3 obtained construction permission apart from terming the explanation submitted by the petitioner as "the irrelevant explanation". He has not given any reason as to what was the nature of material misrepresentation or fraudulent statement made by the petitioner. He also failed to refer to the contents of the explanation filed by the petitioner and state the reasons for terming it as irrelevant. I am therefore of the view that the impugned order passed by respondent No.1 does not satisfy the requirement of a speaking order. It is legally well settled that furnishing of reasons is a facet of principles of natural justice and an

order which involves adverse civil consequences shall contain reasons in support of it. (See **Charan Singh v. Healing Touch Hospital**[1], **State of Punjab v. Bagh Singh**[2], **State of Orissa v. Dhaniram Luhar**[3], **State of Rajasthan v. Sohan Lal**[4], **Cyril Lasrado v. Juliana Maria Lasrado**[5], **Mangalore Ganesh Beedi Works v. CIT**[6] and **Manorama Sachan v. Lucknow Development Authority**[7]).

As the order passed by respondent No.1 does not satisfy the requirement of the reasoned order, without going into the merits of the rival claims of the parties, the same is set aside. The Commissioner, Karimnagar Municipal Corporation is directed to hear the parties afresh and pass a reasoned order within the parameters of Section 450 of the Act. Till then the parties shall maintain status quo obtaining as on today.

The writ petition is accordingly allowed to the extent indicated above.

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C.V.NAGARJUNA REDDY,J

Date:06.12.2007
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[1] (2000) 7 SCC 668
[2] (2004) 1 SCC 547
[3] (2004) 5 SCC 568
[4] (2004) 5 SCC 573
[5] (2004) 7 SCC 431
[6] (2005) 5 SCC 75
[7] (2005) 9 SCC 425